

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DAVETTE ESPARZA,

§

Plaintiff,

§

v.

§ CIVIL ACTION NO. 3:12-cv-00662-D

BANK OF AMERICA, N.A. and
RODERICK WILSON,

§

Defendants.

§

**DEFENDANTS' RESPONSE TO PLAINTIFF'S
MOTION FOR EXTENSION OF TIME TO FILE RESPONSE IN OPPOSITION TO
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Defendants Bank of America, N.A. ("Bank of America") and Roderick Wilson ("Wilson") (collectively, "Defendants"), respectfully submit this response to Plaintiff's Motion for Extension of Time to File Response In Opposition to Defendants' Motion for Summary Judgment and state as follows:

1. Defendants' Motion for Summary Judgment was timely filed on December 14, 2012. (*Docket Nos. 30-32.*) Pursuant to Local Rule 7.1(e), Plaintiff had 21 days, or until January 4, 2013, to file her response.

2. Nonetheless, Plaintiff waited until 11:59 pm on January 7, 2013 to file the instant motion for extension of time, and failed to confer with Defendants' counsel before filing the instant motion. Under Federal Rule of Civil Procedure 6(b), when as here a party makes a motion for an extension of time to act after the time has expired, the court may extend the time for good cause and only if the failure to act was because of excusable neglect. Fed. R. Civ. P. 6(b)(1)(B). Plaintiff's motion neither discusses this standard nor attempts to justify her failure to confer with counsel or file the motion before the January 4 deadline expired.

3. This is Plaintiff's second untimely request for an extension of the dispositive motions briefing deadlines. (*Docket Nos. 33-34.*)

4. It is within the Court's discretion to grant or deny Plaintiff's untimely request for an extension of time. If the Court grants the motion, Defendants respectfully request that it also extend Defendants' time to file its reply by one-week to twenty-one days as Defendants' response to Plaintiff's Motion for Partial Summary Judgment is due in the interim.

Respectfully submitted,

By: s/ Brian Patterson
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**ATTORNEY IN CHARGE FOR
DEFENDANTS**

CERTIFICATE OF SERVICE

I, Brian Patterson, an attorney, hereby certify that on this 9th day of January, 2013, a copy of the foregoing instrument was served on all counsel via the Court's ECF filing system.

s/ Brian Patterson
Brian Patterson